IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 24.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.118 of 2006

Dhana @ Dhanasekaran ... Petitioner

Vs.

1. The Commissioner of Police,
   Greater Chennai,
   Egmore, Chennai-8.

2. The Secretary, Government of
   Tamil Nadu,
   Prohibition and Excise Department,
   Fort St. George, Chennai-600 009. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records in Memo No.211/BDFGISV/2005 dated 12.05.2005 and quash the order of detention No.211/05 dated 12.05.2005 passed by the first respondent and set aside the same directing the respondent to produce the petitioner viz., Dhana @ Dhanasekaran, son of Gunasekaran before this Court, who is now confined in Central Prison, Chennai and set him at liberty.

For Petitioner : Mr.M.Udhayashankar
For Respondents : Mr.Abudhukumar Rajarathinam
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner by name Dhana @ Dhanasekaran, who was detained as a "Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 12.05.2005, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel appearing for the petitioner submitted that the arrest of the detenu was intimated to one Roslin Mary. But in the arrest memo, the address has not been mentioned. As against the said contention, the learned Government Advocate pointed out that the said Roslin Mary is none other than wife of the detenu and she was intimated regarding the arrest of her husband/detenu on 25.04.2005. He has also pointed out that even the detention order was also intimated to his wife Roslin Mary and the same was acknowledged by her. We are satisfied that in the arrest memo, the said Roslin Mary acknowledged the same by putting her signature. In such circumstances, we are unable to accept the contention raised by the learned counsel for the petitioner.

4. The learned counsel for the petitioner further contended that though in the remand order a reference was made to the memo filed by the detenue/accused, the copy of the same was not furnished to the detenu. He also contended that in the Tamil version of the remand order, the filing of the memo and recording the objection has not been stated. We verified the English version of the remand order, which is available at page Nos.129 and 130 as well as the Tamil version at page Nos.132 and 133 of the paper book supplied to the detenu. Though the copy of the said memo was not supplied to the detenu, as rightly pointed out by the learned Government Advocate, the detaining authority, while passing the order of detention, was aware of the memo and the objection raised before the learned VIII Metropolitan Magistrate, George Town, Chennai. It is made clear from paragraph 3 of the grounds of detention. In such circumstances and of the fact that the detaining authority had awareness with regard to the objection raised before the learned VIII Metropolitan Magistrate, George Town, Chennai, merely because the copy of the said memo was not furnished to the detenu, it cannot be claimed that the ultimate order passed by the detaining authority is vitiated. Accordingly, we reject the said contention also.

5. In the light of what is stated, we do not find any valid ground for interference. Consequently, the Habeas Corpus Petition fails and the same is dismissed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Secretary to Government of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.

3.The Superintendent, Central Prison, Chennai.

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ one cc to Mr.M.Udhayashankar, Advocate Sr.No.21442.

JRG (CO)
RSM/9.5.2006

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